

HOUSE BILL 902

By McDonald

AN ACT to amend Tennessee Code Annotated, Title 62,
Chapter 9, relative to junk and scrap metal
dealers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 9, is amended by deleting the chapter in its entirety and substituting instead the following:

Section 62-9-101. As used in this chapter, unless the context otherwise requires:

(1) "Scrap metal" means second-hand iron, brass, wire, cable, copper, aluminum, platinum, lead, solder or other similar metals but shall not include recyclable aluminum cans; and

(2) "Scrap metal dealer" means any person who buys, sells, exchanges, trades or deals in scrap metal with more frequency than ten (10) separate transactions in a seven-day period or in quantity greater than one hundred (100) pounds in a seven-day period.

Section 62-9-102.

(a) Effective September 1, 2007, no scrap metal dealer, shall buy, sell, exchange, trade, transfer, deal or otherwise engage in the scrap metal business unless the dealer is licensed to do so by the commissioner of the department of commerce and insurance.

(b) The commissioner shall design an application for scrap metal dealer licenses which shall require the dealer to submit information sufficient to enable the department of commerce and insurance to determine if the dealer is prohibited from being issued a license.

(c)

(1) No license shall be issued to an applicant who has been convicted of a misdemeanor or felony involving theft, the receipt of stolen property or any other offense the facts of which involved the scrap metal business.

(2) In applying for a scrap metal dealer license, the applicant grants the commissioner permission to conduct a criminal records background investigation on such applicant through the Tennessee bureau of investigation.

(d) A scrap metal dealer license shall only be issued to the applicant and shall not be transferable to another without the written consent of the commissioner. The commissioner may, by rule establish a procedure whereby a scrap metal dealer license may be transferred under specified circumstances or the commissioner may prohibit any such license transfers. A person who knowingly transfers or attempts to transfer a scrap metal dealer license without the written consent of the commissioner or knowingly sells or attempts to sell scrap metal with a license that was not validly transferred is in violation of § 62-9-106, and shall be punished accordingly.

(e) An initial scrap metal dealer license shall be three hundred dollars (\$300) and such license shall be valid for a period of three (3) years unless otherwise revoked by the commissioner. A renewal license shall be one hundred dollars (\$100) and shall be valid for a period of two (2) years.

(f)

(1) The commissioner shall revoke a scrap metal dealer license issued pursuant to this chapter for any material violation of any requirement of this chapter. A criminal conviction for a misdemeanor or

felony offense involving the scrap metal business shall be conclusive proof of grounds for the revocation of a scrap metal dealer license.

(2) No person whose scrap metal dealer's license has been revoked by the commissioner may apply for reinstatement of such license for a period of ten (10) years.

Section 62-9-103.

(a) No dealer may purchase or otherwise acquire scrap metal from a person unless the person presents a valid identification. Acceptable forms of identification are:

- (1) A state-issued driver license;
- (2) A state-issued identification card;
- (3) A passport;
- (4) A valid military identification;
- (5) A nonresident alien border crossing card;
- (6) A resident alien border crossing card; or
- (7) A United States immigration and naturalization service identification.

(b) If valid identification is presented, the scrap metal dealer shall record the name, race, sex, height, weight, date of birth, residence address and numbers from the items used as identification of the person selling the scrap metal and photocopy the document used as identification.

(c) If the person selling scrap metal has no valid identification at the time of the sale, no dealer may buy or otherwise receive scrap metal from that person unless the person provides a right thumbprint impression in lieu of the form of identification authorized in subsection (a). However, if taking the right thumbprint

is not possible, the dealer shall take a fingerprint from the left thumb or another finger and shall identify on the transaction sheet which finger has been used. A thumb or fingerprint taken pursuant to this subsection (c) must be clear and complete and contain no smears or smudges. A thumb or fingerprint taken pursuant to this subsection (c) shall be maintained by the dealer for a period of five (5) years from the date of the scrap metal sale.

(d)

(1) Before purchasing scrap metal from a person, the dealer shall inquire as to where the scrap metal was obtained for the purpose of determining if purchasing scrap metal from that person is a lawful transaction. If the person presents a bill of sale, receipt or other document indicating that the person is in lawful possession of the scrap metal, or was otherwise lawfully acquired, the dealer shall photocopy such document and maintain it with the transaction information otherwise required by this section.

(2) In addition to other transaction information required to be maintained by a dealer, the dealer shall also maintain records of each purchase by date of purchase, the amount paid for the scrap metal, the kind of metals purchased or received, and the number of pounds of each kind of scrap metal. Such entries shall be made in chronological order of sale from day to day, as the business is transacted.

(e)

(1) If it appears from the requirements of this section that the person is in lawful possession of the scrap metal and buying or otherwise receiving the metal from the seller would not violate this chapter, the

dealer shall give the seller a voucher for the amount of metal purchased. Such voucher shall include the same information required under subsection (d)(2) of this section, the date on which the voucher can be redeemed and a reference number as to where the metal purchased is stored pursuant to § 62-9-104. The voucher can only be redeemed by the person whose name appears on the voucher as the seller. No voucher may be redeemed by the voucher holder for a period of five (5) days from the date of the scrap metal transaction.

(2) No dealer shall purchase or receive, or otherwise acquire, any scrap metal from a person under sixteen (16) years of age, whether the metal is acquired directly from, through or by the aid of such minor.

Section 62-9-104. A scrap metal dealer shall keep and store each purchase of scrap metal in a separate container that is marked with the name of the purchase and the date of the transaction. No scrap metal purchased from different sellers shall be mixed or confused with other purchases and shall be stored in a manner so as to easily facilitate the lawful inspection of each transaction by anyone authorized to investigate. No scrap metal dealer shall sell, transfer, melt, reform, recast, otherwise change the shape or composition of or transfer or otherwise dispose of purchased scrap metal for a period of thirty (30) days from the date of purchase or receipt.

Section 62-9-105.

(a) A dealer shall be required to maintain each scrap metal transaction record for a period of five (5) years following the transaction.

(b) All scrap metal transaction records shall be open and available for inspection by a law enforcement officer during the dealer's normal business hours. However a search warrant or subpoena may be executed at any time.

Section 62-9-106.

(a) A person who purchases scrap metal more frequently than ten (10) separate transactions in a seven-day period or in quantity greater than one hundred (100) pounds in a seven-day period without a license to do so commits a Class E felony.

(b) A person who sells or attempts to sell scrap metal knowing that the metal is stolen, commits theft and shall be punished according to the value of the metal sold or attempted to be sold.

(c) Any other violation of this chapter is a Class A misdemeanor.

SECTION 2. For purposes of the commissioner of commerce and insurance creating scrap metal dealer license applications and scrap metal dealer licenses and otherwise implementing the provisions of this act, it shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on September 1, 2007, the public welfare requiring it.